

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MILTON AL STEWART,
Acting Secretary of Labor,
U.S. Department of Labor,

Plaintiff,

v.

Case No. 20-C-1576

ALLAN ZEISE, ZYQUEST, INC., and
ZYQUEST, INC. 401(K) RETIREMENT
PLAN AND TRUST,

Defendants.

ORDER

Plaintiff filed this action under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§ 1001 *et seq.*, alleging that Defendants Zeise and Zyquest, acting as fiduciaries for the Zyquest, Inc. 401(K) Retirement Plan and Trust (Plan), failed to act in the interest of Plan participants and discharge their duties with due care, skill, and diligence. Specifically, Plaintiff alleges that Zeise and Zyquest failed to remit employee salary deferral contributions and employee loan repayments to the Plan in violation of ERISA, causing losses to the Plan for which they are liable in the amount of \$165,759.95. Defendants did not answer or otherwise respond to Plaintiff's complaint, and upon request by Plaintiff, the Clerk entered a default against Defendants on January 5, 2021. Dkt. No. 7. Plaintiffs have now moved the Court to enter a default judgment against Defendants in the amount of \$165,759.95 and to appoint a new independent fiduciary to administer the Plan. Dkt. No. 10.

The Court finds that the amount of judgment, to be restored to the Plan, is reasonable and consistent with the information verified by the U.S. Department of Labor, Employee Benefits Security investigator. The Court also finds that the appointment of a new independent fiduciary is necessary to safeguard and manage the assets of the Plan and to ensure that employee salary deferrals and participant loan repayments are restored to the plan consistent with the judgment accompanying this order.

IT IS THEREFORE ORDERED that Defendants Allan Zeise and Zyquest, Inc. are jointly and severally liable for repayment of the Plan in the amount of \$165,759.95.

IT IS FURTHER ORDERED that an independent fiduciary shall be appointed to oversee the Plan and repayments thereto, consistent with the judgment accompanying this order.

The Clerk is directed to enter judgment accordingly.

Dated at Green Bay, Wisconsin this 27th day of January, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge